

AMENDED IN SENATE AUGUST 24, 2011
AMENDED IN SENATE JULY 13, 2011
AMENDED IN SENATE JUNE 27, 2011
AMENDED IN ASSEMBLY MARCH 22, 2011
AMENDED IN ASSEMBLY FEBRUARY 2, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 65

Introduced by Assembly Member Gatto

December 9, 2010

An act to amend Sections 9005 and 9087 of the Elections Code, and to amend Section 88003 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

AB 65, as amended, Gatto. Elections: statewide ballot pamphlet.

The California Constitution requires the Attorney General to prepare a title and summary of an initiative measure prior to its circulation for signatures. Existing law directs the Attorney General, in preparing the circulating title and summary for an initiative, to include an estimate of the amount of increase or decrease of revenues or costs to the state. Existing law requires the Department of Finance and the Joint Legislative Budget Committee to jointly make and deliver that estimate to the Attorney General so that he or she may include it in the circulating title and summary.

This bill would, except as specified, based on a determination in the fiscal analysis by the Department of Finance and the Joint Legislative Budget Committee that a measure would provide new revenues for new

or existing programs, require that specified language, which advises that the revenue generated by the measure will be forever dedicated for the purposes specified in the measure unless the measure is changed by a future initiative, be provided to the Attorney General and included in the circulatory title and summary.

The Political Reform Act of 1974 requires the Legislative Analyst to prepare an impartial analysis of each initiative measure to appear on the ballot, and provides that the Legislative Analyst is solely responsible for determining the content of the analysis. Existing law directs the Legislative Analyst to prepare an unbiased fiscal analysis of a measure that is included in the ballot pamphlet stating whether the measure would result in increased or decreased costs to the state and an estimate of those costs or savings.

The Political Reform Act of 1974, an initiative statute, generally provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements. The act also provides that, notwithstanding this requirement, the Legislature may *without restriction* amend specified provisions of the act to add to the ballot pamphlet information regarding candidates or other information.

This bill would, except as specified, require, if a fiscal analysis prepared by the Legislative Analyst determines that a measure would provide new revenues for new or existing programs, that specified language be added to the ballot pamphlet advising that the revenue generated by the measure will be forever dedicated to the purposes specified in the measure unless the measure is changed by a future initiative measure. The bill also would contain a finding and declaration of the Legislature that the bill permits or requires additional information to be included in the ballot pamphlet in accordance with the provision of the Political Reform Act of 1974 described above that authorizes the Legislature to add information to the ballot pamphlet.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9005 of the Elections Code is amended
- 2 to read:
- 3 9005. (a) The Attorney General, in preparing a circulating title
- 4 and summary for a proposed initiative measure, shall, in boldface

1 print, include in the circulating title and summary either the
2 estimate of the amount of any increase or decrease in revenues or
3 costs to the state or local government, or an opinion as to whether
4 or not a substantial net change in state or local finances would
5 result if the proposed initiative is adopted.

6 (b) The estimate as required by this section shall be made jointly
7 by the Department of Finance and the Joint Legislative Budget
8 Committee, who shall deliver the estimate to the Attorney General
9 so that he or she may include the estimate in the circulating title
10 and summary prepared by him or her.

11 (c) The estimate shall be delivered to the Attorney General
12 within 25 working days from the date of receipt of the final version
13 of the proposed initiative measure from the Attorney General,
14 unless, in the opinion of both the Department of Finance and the
15 Joint Legislative Budget Committee, a reasonable estimate of the
16 net impact of the proposed initiative measure cannot be prepared
17 within the 25-day period. In the latter case, the Department of
18 Finance and the Joint Legislative Budget Committee shall, within
19 the 25-day period, give the Attorney General their opinion as to
20 whether or not a substantial net change in state or local finances
21 would result if the proposed initiative measure is adopted.

22 (d) A statement of fiscal impact prepared by the Legislative
23 Analyst pursuant to subdivision (b) of Section 12172 of the
24 Government Code may be used by the Department of Finance and
25 the Joint Legislative Budget Committee in the preparation of the
26 fiscal estimate or the opinion.

27 (e) (1) Except as provided in paragraph (2), if an initiative
28 measure submitted for circulating title and summary is determined
29 in the joint analysis of the Joint Legislative Budget Committee
30 and Department of Finance to provide new revenues for new or
31 existing programs, a paragraph shall be provided to the Attorney
32 General, at the same time as the estimate provided pursuant to
33 subdivision (c), which shall be included in the circulating title and
34 summary prepared by the Attorney General pursuant to Section
35 9004, stating as follows:

36 *“The following disclaimer is provided pursuant to Assembly Bill*
37 *No. 65 of the 2011–12 Regular Session:”*

38 *“Unless changed by a future initiative, the taxpayer dollars*
39 *generated by this initiative will be forever dedicated to the purposes*

1 listed in this initiative, and cannot be ~~used~~ *spent* by the state for
2 any other purpose, ~~even during a budget emergency.~~”

3 (2) Paragraph (1) shall not apply if the initiative measure
4 provides that the new revenues are to be deposited without
5 restriction into the General Fund commencing at a future date after
6 its enactment, *or if the initiative measure allows the Legislature*
7 *to reallocate the revenues.*

8 SEC. 2. Section 9087 of the Elections Code is amended to read:

9 9087. (a) The Legislative Analyst shall prepare an impartial
10 analysis of the measure describing the measure and including a
11 fiscal analysis of the measure showing the amount of any increase
12 or decrease in revenue or cost to state or local government. If it is
13 estimated that a measure would result in increased cost to the state,
14 an analysis of the measure’s estimated impact on the state shall be
15 provided, including an estimate of the percentage of the General
16 Fund that would be expended due to the measure, using visual aids
17 when appropriate. An estimate of increased cost to the state or
18 local governments shall be set out in boldface print in the ballot
19 pamphlet.

20 (b) The analysis shall be written in clear and concise terms, so
21 as to be easily understood by the average voter, and shall avoid
22 the use of technical terms wherever possible. The analysis may
23 contain background information, including the effect of the
24 measure on existing law and the effect of enacted legislation which
25 will become effective if the measure is adopted, and shall generally
26 set forth in an impartial manner the information the average voter
27 needs to adequately understand the measure. To the extent
28 practicable, the Legislative Analyst shall utilize a uniform method
29 in each analysis to describe the estimated increase or decrease in
30 revenue or cost of a measure, so that the average voter may draw
31 comparisons among the fiscal impacts of measures. The condensed
32 statement of the fiscal impact summary for the measure prepared
33 by the Attorney General to appear on the ballot shall contain the
34 uniform estimate of increase or decrease in revenue or cost of the
35 measure prepared pursuant to this subdivision.

36 (c) The Legislative Analyst may contract with a professional
37 writer, educational specialist, or another person for assistance in
38 writing an analysis that fulfills the requirements of this section,
39 including the requirement that the analysis be written so that it
40 will be easily understood by the average voter. The Legislative

Analyst may also request the assistance of a state department, agency, or official in preparing his or her analysis.

(d) Prior to submitting the analysis to the Secretary of State, the Legislative Analyst shall submit the analysis to a committee of five persons, appointed by the Legislative Analyst, for the purpose of reviewing the analysis to confirm its clarity and easy comprehension to the average voter. The committee shall be drawn from the public at large, and one member shall be a specialist in education, one member shall be bilingual, and one member shall be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section.

(e) The title of the measure that appears on the ballot shall be amended to contain a summary of the Legislative Analyst's estimate of the net state and local government fiscal impact.

(f) (1) Except as provided in paragraph (2), if an initiative measure qualifies for the ballot and the Legislative Analyst's analysis prepared pursuant to this section determines that the initiative measure would provide new revenues for new or existing programs, a paragraph shall be added to the summary statement prepared pursuant to Section 9085 of the ballot pamphlet prepared pursuant to Section 9081, stating as follows:

"The following disclaimer is provided pursuant to Assembly Bill No. 65 of the 2011–12 Regular Session:"

"Unless changed by a future initiative, the taxpayer dollars generated by this initiative will be forever dedicated to the purposes listed in this initiative, and cannot be ~~used~~ spent by the state for any other purpose, ~~even during a budget emergency.~~"

(2) Paragraph (1) shall not apply if the measure provides that the new revenues are to be deposited without restriction into the General Fund commencing at a future date after its enactment, *or*

1 *if the initiative measure allows the Legislature to reallocate the*
2 *revenues.*

3 SEC. 3. Section 88003 of the Government Code is amended
4 to read:

5 88003. (a) The Legislative Analyst shall prepare an impartial
6 analysis of the measure describing the measure and including a
7 fiscal analysis of the measure showing the amount of any increase
8 or decrease in revenue or cost to state or local government. Any
9 estimate of increased cost to local governments shall be set out in
10 boldface print in the ballot pamphlet. The analysis shall be written
11 in clear and concise terms which will easily be understood by the
12 average voter, and shall avoid the use of technical terms wherever
13 possible. The analysis may contain background information,
14 including the effect of the measure on existing law and the effect
15 of enacted legislation which will become effective if the measure
16 is adopted, and shall generally set forth in an impartial manner the
17 information which the average voter needs to understand the
18 measure adequately. The Legislative Analyst may contract with
19 professional writers, educational specialists or other persons for
20 assistance in writing an analysis that fulfills the requirements of
21 this section, including the requirement that the analysis be written
22 so that it will be easily understood by the average voter. The
23 Legislative Analyst may also request the assistance of any state
24 department, agency, or official in preparing his or her analysis.
25 Prior to submission of the analysis to the Secretary of State, the
26 Legislative Analyst shall submit the analysis to a committee of
27 five persons appointed by the Legislative analyst for the purpose
28 of reviewing the analysis to confirm its clarity and easy
29 comprehension to the average voter. The committee shall be drawn
30 from the public at large, and one member shall be a specialist in
31 education, one shall be bilingual, and one shall be a professional
32 writer. Members of the committee shall be reimbursed for
33 reasonable and necessary expenses incurred in performing their
34 duties. Within five days of the submission of the analysis to the
35 committee, the committee shall make such recommendations to
36 the Legislative Analyst as it deems appropriate to guarantee that
37 the analysis can be easily understood by the average voter. The
38 Legislative Analyst shall consider the committee's
39 recommendations, and he or she shall incorporate in the analysis
40 those changes recommended by the committee that he or she deems

1 to be appropriate. The Legislative Analyst is solely responsible
2 for determining the content of the analysis required by this section.
3 The title of the measure which appears on the ballot shall be
4 amended to contain a summary of the Legislative Analyst's
5 estimate of the net state and local government financial impact.

6 (b) (1) Except as provided in paragraph (2), if an initiative
7 measure qualifies for the ballot and the Legislative Analyst's
8 analysis prepared pursuant to this section determines that the
9 initiative measure would provide new revenues for new or existing
10 programs, a paragraph shall be added to the summary statement
11 prepared pursuant to Section 9085 of the Elections Code of the
12 ballot pamphlet prepared pursuant to Section 9081 of the Elections
13 Code, stating as follows:

14 "Unless changed by a future initiative, the taxpayer dollars
15 generated by this initiative will be forever dedicated to the purposes
16 listed in this initiative, and cannot be used by the state for any
17 other purpose, even during a budget emergency."

18 (2) Paragraph (1) shall not apply if the measure provides that
19 the new revenues are to be deposited without restriction into the
20 General Fund commencing at a future date after its enactment.

21 SEC. 4. The Legislature finds and declares that this act permits
22 or requires the inclusion of additional information on the ballot
23 pamphlet in accordance with Section 88007 of the Government
24 Code.